

VZCZCXRO7364  
RR RUEHCHI RUEHDT RUEHHM RUEHNN  
DE RUEHBK #1599 0750954  
ZNR UUUUU ZZH  
R 160954Z MAR 07  
FM AMEMBASSY BANGKOK  
TO RUEHC/SECSTATE WASHDC 5634  
RUCNASE/ASEAN MEMBER COLLECTIVE  
RUCPDOG/USDOC WASHINGTON DC

UNCLAS BANGKOK 001599

SIPDIS

SIPDIS

STATE PASS USTR  
STATE PASS USPTO  
USDOC FOR JKELLY

E.O. 12958:N/A

TAGS: [ECON](#) [ETRD](#) [KIPR](#) [TH](#)

SUBJECT: AMBASSADOR PRESSES COMMERCE ON TRADE AND INVESTMENT

¶1. Summary: On March 15, Ambassador met with Minister of Commerce Krirk-krai Jirapaet to discuss three pressing issues: currency controls, proposed Foreign Business Act (FBA) amendments, and compulsory licenses on pharmaceutical products (CLs). Krirk-krai offered no assurances that policy changes could be expected to ease industry and USG concerns on those issues, but agreed in principle with USG positions, including the need to consult widely before enacting new broadly impacting economic policies. Krirk-krai brought the long-standing complaint on bond requirements for Thai shrimp exports, and inquired about the possibility that Thailand would soon be placed on the Special 301 Priority Watch List. End Summary.

¶2. Currency Controls: The Minister explained that per his discussions with the Bank of Thailand (subtly making the point that it was not his portfolio), the original policy to require compulsory 30 percent deposits of incoming capital was put in place to stabilize the currency markets, but the controls had since been relaxed. He noted the stock market was sensitive to such moves and felt the trend was toward using interest rates adjustments to stabilize the currency. He admitted that too much intervention in the markets would weaken the system but was optimistic about the overall picture.

¶3. Foreign Business Act amendment: The Ambassador noted that he was present when the Minister addressed the Joint Foreign Chambers of Commerce regarding the FBA and asked if there had been any updates since that time. The Minister reiterated that the intent of the proposed FBA amendment was not to close the door on foreign investment, but rather to bring clarity and good governance to the regulation of foreign business. He admitted that the perception in the foreign business community was negative but felt they did not fully appreciate the fact that he was "pardoning" all those companies that had been using nominees over the past few decades. He noted that both the National Legislative Assembly (NLA) and the Council of State have the ability to change the amendment and he was tracking the progress of the various versions working their way through the legislative process. He expected that further action could take place within 30 days, but admitted it was quite possible this timeline would be extended.

¶4. Compulsory Licenses: The Ambassador delivered USTR Susan Schwab's letter regarding Thailand's breaking of three pharmaceutical patents in recent months. He emphasized that the USG completely understood the RTG's efforts to combat diseases such as HIV/AIDS and did not contest their right to use CLs to achieve that goal. However, he encouraged the RTG to consult with companies prior to using CLs. The Ambassador made the case that advance notification would go a long way to smooth ruffled feathers and give companies the opportunity to react in a pragmatic way that would balance commercial and public health goals. The Minister responded that as he told our Secretary of Commerce, prior notification was important and he would continue to encourage the Ministry of Public Health to

work with industry. (Comment: It appeared the Minister was placing full blame on MOPH and believed he had done all he could do. End Comment.)

¶15. Continuous Bond on shrimp exports: The Minister raised the issue of U.S. Customs' requirement for Thai shrimp exporters to post continuous bonds and asked what the Ambassador could do to help. The Ambassador responded he would look into the situation when he was in Washington but his feel was that U.S. Customs was not in a position to change their policy. The Minister alluded to WTO action and stated he hoped it could be resolved sooner rather than later.

¶16. Special 301 and IPR: The Minister raised rumors that Thailand might be moved from Watch List to Priority Watch List in the current Special 301 review, and asked what he could do to avert that outcome. He stated that the RTG IP enforcement team was doing everything they could do. The Ambassador stated that the finding would be based on what happened last year and that our companies have commented that IP enforcement had worsened despite the MOC's claim that seizures have increased by 25 percent. The DG of the Department of Intellectual Property was there and (incorrectly) stated that only three U.S. companies had complained about Thailand's enforcement regime. The Ambassador asked what would be the reaction if Thailand was placed on the PWL; the Minister deflected but said he hoped to avoid a tit for tat.

¶17. Comment: The Ambassador made the overall point that the economic policies of the past six months have left a negative impression with the foreign business community, and strongly encouraged the MOC to consider consulting with the foreign business community prior to enacting complex economic regulations. End Comment.  
BOYCE